

Application No. 10/508,348
Amendment Pursuant to 37 C.F.R. § 1.111
Attorney Docket: RD8145USPCT
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REMARKS / ARGUMENTS

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Status of the Claims:

Claims 41-54 are currently pending. Claim 41 has been amended to more clearly set forth the subject matter of the present invention. Claims 55-58, which were previously withdrawn, have been canceled. Applicant reserves the right to prosecute the subject matter of these claims in a divisional application.

Election/Restrictions

This application has been subject to election between two groups of claims, specifically: Group I, claims 41-54, drawn to a process of making mixed polyamide yarn; and Group II, claims 55-58, drawn to a mixed polyamide yarn. Applicant confirms the previous election of group I, without traverse.

Rejections Under 35 U.S.C. §102

Independent claim 41 has been rejected under 35 U.S.C. §102(b) as being anticipated by one of U.S. Patent No. 3,457,341 to Duncan et al. ("Duncan"), U.S. Patent No. 3,481,133 to Knopse ("Knopse"), JP 04-024240 and JP 09-003746. Similarly, claims 41 and 53 have been rejected as anticipated by U.S. Patent No. 5,804,115 to Burton, et al. ("Burton.") Each of these rejections is addressed below.

As amended, the claims include simultaneously spinning from separate spinning packs.

Duncan

With respect to Duncan, Applicant respectfully submits that the amendment of claim 41 obviates this ground of rejection. Claim 41 has been amended to clarify that the first and second groups of polyamide filaments are prepared from separate spinning packs which is not disclosed by Duncan. This amendment is supported in the specification at paragraph [0009].

Duncan includes a single spinneret through which two different polyamides are extruded. In order to accomplish this, strict control over the relative viscosities of the polymer solutions must be maintained. The present invention avoids the need to provide such control over the

viscosities of the polymer solutions by providing separate spinning packs to separately prepare the two groups of different polyamide filaments.

Duncan fails to disclose, teach, or suggest every element of the present claims by failing to disclose the use of separate spinning packs for the different polyamides from which two groups of filaments of the present invention are prepared. Therefore, reconsideration and withdrawal of the rejections under Section 102 in view of Duncan are appropriate and respectfully requested.

Knopse

The rejection of claim 41 as anticipated by Knopse is respectfully traversed on the grounds that Knopse fails to disclose every element of claim 41.

Knopse discloses a mixed shrinkage yarn which includes filaments having different shrinkage rates which may be of different polymers. However, Knopse does not disclose, teach or suggest simultaneous spinning of a first and second group of filaments. Also, Knopse fails to teach that the filaments are spun from separate spinning packs. Therefore, Knopse fails to anticipate claim 41. Accordingly, reconsideration and withdrawal of this rejection of claim 41 are appropriate and respectfully requested.

Japanese Abstracts

The rejections of claim 41 as anticipated by one of Japanese Abstracts 04-024240A and 09-003746 are also respectfully traversed as the abstracts fail to disclose every element of claim 41.

Each of the Japanese Abstracts discloses woven fabrics including polyamide yarns. However, the Japanese Abstracts also fail to disclose, teach or suggest every element of the present claims. Neither of the Japanese Abstracts discloses a method of preparing a mixed polyamide yarn that includes simultaneously spinning a first and second group of filaments from separate spinning packs. Also, JP04-024240 fails to disclose the use of an air interlacing jet and JP09-003746 fails to disclose the use of two different polyamides.

Since the Japanese Abstracts fail to disclose, teach, or suggest every element of the present claims, they individually fail as proper references under Section 102. Therefore, reconsideration and withdrawal of these rejections under Section 102 are appropriate and respectfully requested.

Burton

Claims 41 and 53 have also been rejected as anticipated by Burton. These rejections are respectfully traversed.

Burton discloses a method of preparing a multi-filament yarn which includes different colors. The goal of Burton is to provide a yarn which "when tufted into carpet exhibits striking color pop." Column 4, lines 14-15. Burton seeks to achieve this goal by including filaments of contrasting colors into the yarn. However, Burton does not disclose, teach, or suggest that the filaments may be prepared from different polyamide compositions nor does Burton disclose the simultaneous spinning of filaments of different polyamides. Therefore, Burton fails to anticipate the present claims.

Since Burton fails to disclose, teach or suggest a method of preparing a mixed polyamide yarn by simultaneous spinning of filaments from different polyamides, Burton fails as a proper reference under Section 102. Therefore, reconsideration and withdrawal of the rejections under Section 102 are appropriate and respectfully requested.

Rejections Under 35 U.S.C. §103

Claims 42-54 have been rejected under 35 U.S.C. §103(a) as being unpatentable over any one of Duncan, Knopse, and the Japanese Abstracts. Similarly, claims 42-52 and 54 have been rejected as unpatentable over Burton. These rejections are respectfully traversed.

As set forth above, in the discussion of rejections under Section 102, each of the references fails to set forth every element of the present claims. In order to establish a *prima facie* case of obviousness, the reference must disclose, teach, or suggest every element of the claims. Therefore, with respect to Section 103, each reference fails to establish a *prima facie* case of obviousness. Accordingly, reconsideration and withdrawal of the rejections under Section 103 are appropriate and respectfully requested.

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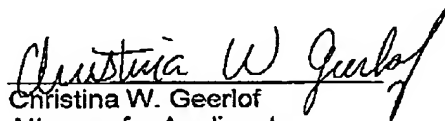
CONCLUSION

For the reasons stated above, claims 41-54 are believed to be in condition for allowance. Accordingly, Applicant respectfully requests that the Application be allowed. If prosecution may be further advanced, the Examiner is invited to telephone the undersigned to discuss this application.

Date: _____

10/16/06

Respectfully submitted,



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